

ONE HUNDRED FIFTEENTH CONGRESS  
**Congress of the United States**  
**House of Representatives**

COMMITTEE ON ENERGY AND COMMERCE

2125 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6115

Majority (202) 225-2927  
Minority (202) 225-3641

October 12, 2018

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The Honorable Ajit V. Pai  
Chairman  
Federal Communications Commission  
445 12th Street SW  
Washington, DC 20554

Dear Chairman Pai:

We write to seek more information about the Federal Communication Commission's (FCC) decision to amend your informal complaint rule.<sup>1</sup> While we understand your commitment that the FCC practices for managing informal complaints will not change, we remain very concerned by the potential implications of the revisions. As you are aware, deleting words and phrases in the rule must have a meaning, and in this instance, we need to better understand the effect of these changes. Consumer protection and assisting consumers wronged by communications companies is a fundamental imperative that must remain a high priority for the Commission.

In voting in favor of these rule amendments, you repeatedly cited the opinion of career FCC staff that the changes "would not have any impact on how the Commission deals with informal complaints."<sup>2</sup> The opinion of career staff is helpful, but given the serious questions raised by the amendments, the public deserves greater assurances of your commitment to stand with them to get the help they need and deserve. Therefore, we ask for responses to the following questions:

1. Though you rely on the opinion of career Enforcement Bureau staff in asserting that the revisions to the rules will not change how the Commission deals with informal complaints, it is the FCC's Consumer and Governmental Affairs Bureau (CGB) that

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<sup>1</sup> Federal Communications Commission, *Amendment of Procedural Rules Governing Formal Complaint Proceedings Delegated to the Enforcement Bureau*, Report and Order, EB Docket 17-245, FCC 18-96 (Formal Complaint R&O).

<sup>2</sup> See Formal Complaint R&O, Statement of Chairman Ajit Pai.

handles these complaints.<sup>3</sup> Were the changes to 47 C.F.R. § 1.717 adopted in the Formal Complaint R&O proposed by CGB? Did CGB render an opinion on the effect of the change at any time before the changes were proposed or after the changes were adopted? If so, was that analysis fully consistent with the apparent opinion of the career Enforcement Bureau staff? Please provide copies of all analysis by CGB regarding the impact of the revisions to 47 C.F.R. § 1.717 as adopted in the Formal Complaint R&O.

2. Did the Office of General Counsel (OGC) provide an opinion or analysis on the impact of the revisions to 47 C.F.R. § 1.717 at any time before the revisions were proposed or after the revisions were adopted? If so, was that opinion or analysis fully consistent with the apparent opinion of the career Enforcement Bureau staff? Please provide copies of all analysis by OGC regarding the impact of the revisions to 47 C.F.R. § 1.717 as adopted in the Formal Complaint R&O.
3. Have any policies or procedures governing the intake or management of informal consumer complaints changed as a result of the adoption of the Formal Complaints R&O and its revisions to 47 C.F.R. § 1.717? If no changes have yet been made, are any changes in the process of being made? Please provide copies of all policies and procedures implementing 47 C.F.R. § 1.717 that were in effect on January 1, 2015; January 1, 2016; January 1, 2017; and January 1, 2018, and copies of all policies and procedures governing the intake or management of informal consumer complaints that have been changed or will be changed as a result of the adoption of the Formal Complaints R&O and its revisions to 47 C.F.R. § 1.717.
4. Following the adoption of the Formal Complaints R&O, were any changes made to the written or oral materials used to train the FCC's employees, agents, or contractors who handle informal consumer complaints? Please provide copies of all such materials that were used as of January 1, 2015; January 1, 2016; January 1, 2017 and January 1, 2018, and copies of all such materials regarding the handling of informal complaints that have been changed or will be changed as a result of the adoption of the Formal Complaint R&O and its revisions to 47 C.F.R. § 1.717.
5. For 2018, and for each of the preceding five years, provide separately the number of (a) FCC employees, (b) FCC agents, and (c) FCC contractors, responsible for handling informal consumer complaints.

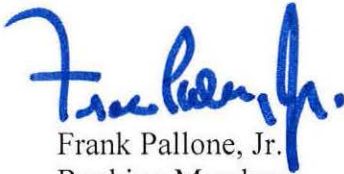
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<sup>3</sup> See FCC Consumer Guide, Filing an Informal Complaint (<https://www.fcc.gov/consumers/guides/filing-informal-complaint>).

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We appreciate your attention to this important matter. Please provide responses to each of these questions and document requests by November 2, 2018. If you have any questions regarding this matter, please contact Gerald Leverich of the Democratic Committee staff at (202) 225-3641.

Sincerely,



Frank Pallone, Jr.  
Ranking Member



Mike Doyle  
Ranking Member  
Subcommittee on Communications  
and Technology





FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF  
THE CHAIRMAN

March 4, 2019

The Honorable Mike Doyle  
Chairman  
Subcommittee on Communications and Technology  
Committee on Energy and Commerce  
U.S. House of Representatives  
2322A Rayburn House Office Building  
Washington, D.C. 20515

Dear Chairman Doyle:

I write in response to your letter regarding the Commission's informal complaint process. Consumer protection has been and remains a critical priority for the Commission. The Commission's informal complaint process, which facilitates a dialogue between a consumer and his or her provider, is an essential component of the Commission's mission to protect consumers.

In July 2018, the Commission decided to clarify aspects of our complaint process—a decision that put on paper FCC procedures that for many years had been undocumented (and thus were not transparent to Congress and consumers). This decision originated in a September 2017 Notice of Proposed Rulemaking, which contained a proposed change to section 1.717 of the informal complaint rules.<sup>1</sup> The vote on that Notice of Proposed Rulemaking was unanimous; every single then-member of the Commission voted for it in full. And as the Chief of the FCC's Enforcement Bureau made clear to Commissioners at the July 2018 open meeting, not a single commenter during the entire pendency of the Notice of Proposed Rulemaking objected to or expressed any concern whatsoever about proposed changes to the text of the informal complaint rule. She also made clear that, again, the proposed changes would not have any impact on the Commission's role in assisting consumers with informal complaints, but merely clarified existing practice which had been in place since 1986 (namely, that the informal complaint process facilitates a dialogue between the consumer and his or her provider, but does not result in a formal Commission ruling). She explained that the proposed change would in no way impede the Commission's ability to take enforcement actions on the basis of informal complaints. And

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<sup>1</sup> I note that the only modification to the pre-existing informal complaint process as a result of the recent clarification in section 1.717 is that the Consumer and Governmental Affairs Bureau now *always* provides information about the formal complaint process to all consumers who are dissatisfied at the conclusion of the informal complaint process, or where the provider failed to respond. Before the rule change, the Consumer and Governmental Affairs Bureau provided information regarding the formal complaint process only in situations where it seemed most appropriate. The Commission's formal complaint process is a longstanding option that provides consumers with an additional vehicle to raise their issue at the agency. This process is conducted more like a traditional legal proceeding. While the formal complaint process may not be suitable for all issues, providing the consumer with this information at the conclusion of the informal complaint process allows the consumer to better assess the options going forward.

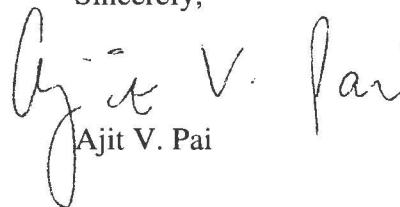
she expressed the view that media reports suggesting that Americans would have to pay a \$225 fee to file a complaint with the FCC were false.

You ask whether the Consumer and Governmental Affairs Bureau and the Office of General Counsel were consulted during the process that led to adoption of these clarifying amendments. The answer is yes. The Enforcement Bureau, which handles certain categories of informal complaints governed by rule 1.717, in conjunction with the Consumer and Governmental Affairs Bureau, proposed the changes based on its experience and brought to the agency's attention the fact that the text of the rule had been confusing for some complainants. The Enforcement Bureau coordinated with the Consumer and Governmental Affairs Bureau about the proposed changes to the rule prior to adoption of the clarification, and (as is the case with every Commission item considered at our open meetings) with the Office of General Counsel. The Consumer and Governmental Affairs Bureau concluded that the changes did not impact its role in assisting consumers with informal complaints, and the Office of General Counsel concluded that the changes did not alter the Commission's authority to investigate and address the concerns raised in informal complaints.

Since the Commission's fiscal year 2015 revision of its consumer complaint system, the Consumer and Governmental Affairs Bureau has reported no systemic backlog in consumer complaints. In the current fiscal year, there are 36 workers (18 employees and 18 contractors) involved in assisting consumers with informal complaints. In fiscal year 2018, there were 35 workers (17 employees and 18 contractors) involved in assisting consumers with informal complaints. In fiscal year 2017, there were 32 workers (25 employees and 7 contractors) involved in assisting consumers with informal complaints. In fiscal year 2016, there were 37 workers (30 employees and 7 contractors) involved in assisting consumers with informal complaints. In fiscal year 2015, there were 48 workers (34 employees and 14 contractors) involved in assisting consumers with informal complaints.

The Commission remains committed to maintaining the informal complaint process as an integral part of the agency's mission to protect consumers. Please let me know if I can be of any further assistance.

Sincerely,



Ajit V. Pai



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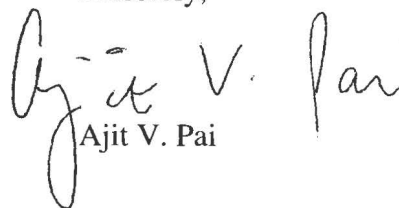
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